

Message Text

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ACTION STR-04

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 FEA-01 AGRE-00
CEA-01 CIAE-00 COME-00 DODE-00 EB-08 FRB-03 H-01
INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05
CIEP-01 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02
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PASS STR AND AGRICULTURE ELECTRONICALLY

E.O. 11652: N/A

TAGS: EAGR, ETRD, EEC

SUBJECT: MEETING OF GATT ARTICLE XXIII:2 PANEL ON EC MIP AND
LICENSING SYSTEM FOR PROCESSED FRUITS AND VEGETABLES,
FEBRUARY 11, 1977

REF: A. STATE 29952; B. STATE 31278

1. BEGIN SUMMARY. U.S. AND EC DELEGATIONS MADE ORAL
PRESENTATIONS BEFORE GATT XXIII:2 PANEL ON EC MINIMUM
IMPORT PRICES AND LICENSING/DEPOSIT SYSTEM FOR PROCESSED
FRUITS AND VEGETABLES. U.S. DEL STATED THAT THE EC SYSTEM
NULLIFIES AND IMPAIRS U.S. GATT RIGHTS AND IS NOT
CONSISTENT WITH THE EC'S OBLIGATIONS UNDER THE GATT.
THE EC DID NOT PRESENT A LEGAL BRIEF AT THIS TIME BUT
DEFENDED ITS SYSTEM ON BASIS THAT (A) MIP WITH LICENSING
AND DEPOSIT FOR TOMATO CONCENTRATES WAS NECESSARY TO
ASSURE THAT IMPORTS WOULD NOT UNDERMINE INTERNAL SCHEME
FOR FRESH TOMATOES AND WAS CONSISTENT WITH GATT ARTICLE
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XI(2)(C); (B) LICENSING WITH DEPOSITS WAS MERELY AN
ADMINISTRATIVE FORMALITY AND DID NOT CONSTITUTE SUPPLE-
MENTARY CHARGE AND THAT (C) THE MIP AND LICENSING SYSTEM
DID NOT RESULT IN ANY TRADE DAMAGE. MEETING LASTED ALL
DAY AND INCLUDED PANEL QUESTIONS AND PRELIMINARY U.S.
REBUTTAL OF EC ARGUMENTS. THE PANEL IS SCHEDULED TO
MEET AGAIN ON MARCH 3. END SUMMARY.

2. U.S. DELEGATION LED BY STR J. STARKEY (WITH STR, USDA, AND MISSION REPRESENTATIVES) MADE ORAL STATEMENT DESCRIBING EC IMPORT SYSTEM ON PROCESSED FRUITS AND VEGETABLES AND GIVING U.S. LEGAL ARGUMENTS THAT THE SYSTEM NULLIFIES AND IMPAIRS U.S. GATT RIGHTS AND IS NOT CONSISTENT WITH EC OBLIGATIONS. MORE DETAILED WRITTEN BRIEF WAS SUBMITTED TO PANEL MEMBERS AND TO GATT SECRETARIAT.

3. EC DELEGATION, LED BY H. MARMULLA (WITH OTHER COMMISSION AND MEMBER STATE REPRESENTATIVES) WAS NOT PREPARED TO SUBMIT A WRITTEN LEGAL BRIEF AT THIS TIME. IT BASED ITS DEFENSE ON MINIMIZING THE ADVERSE TRADE EFFECTS RESULTING FROM ITS COMMON IMPORT SYSTEM; THAT IS, THE SMALL QUANTITIES OF U.S. EXPORTS OF TOMATO CONCENTRATES SUBJECT TO THE MIP AND THE MINIMUM INCIDENCE OF THE SURETY DEPOSIT ON THE TRADE. EC DELEGATION DESCRIBED LICENSING WITH SURETY DEPOSITS AS AN ADMINISTRATIVE FORMALITY AND ALLEGED THE SMALL COST OF BANK GUARANTEE USED TO MEET SURETY REQUIREMENT WAS FULLY CONSISTENT WITH THE PROVISIONS OF ARTICLE VIII. THE EC ALSO ARGUED THAT LICENSE/DEPOSIT REQUIREMENT WAS NEEDED FOR STATISTICAL PURPOSES AND WAS NECESSARY FOR MANAGEMENT OF THEIR INTERNAL MARKET. IN DISCUSSION OF SAFEGUARD MECHANISM EC DELEGATION SAID THAT UNDER NO CONDITIONS WOULD LICENSES ONCE ISSUED BE REVOKED AND JUSTIFIED RECENT SAFEGUARD ACTION AGAINST GREECE AS "SPECIAL" CASE.

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4. EC DELEGATION STATED THAT MIP SYSTEM WAS NECESSARY ON TOMATO CONCENTRATES AND WAS JUSTIFIABLE UNDER GATT ARTICLE XI(2)(C)-II BECAUSE MARKET WITHDRAWALS UNDERTAKEN BY EC PRODUCERS OF FRESH TOMATOES CONSTITUTE PRODUCTION CONTROLS. ALSO ARTICLE XI IS NOT LIMITED SOLELY TO PERISHABLE PRODUCTS (AS STATED IN AD. ARTICLE XI(2)(C) BUT CAN APPLY TO THESE PRODUCTS IN THEIR PROCESSED FORM.

5. THE AUSTRALIAN MISSION SUBMITTED A WRITTEN LEGAL BRIEF TO THE PANEL ON THE INCOMPATIBILITY OF THE EC SYSTEM WITH THE GATT, USING MUCH OF THE SAME LEGAL ARGUMENTATION PRESENTED BY U.S. THIS WAS DISTRIBUTED TO U.S. AND EC DELEGATIONS. THERE WAS NO AUSTRALIAN DELEGATE PRESENT, HOWEVER, AT THIS MEETING.

6. IN VIEW OF THE FACT THAT TWO PANEL MEMBERS (EGGERT AND YOSHIKUNI) WILL BE LEAVING AT THE END OF MARCH, THE

CHAIRMAN (JAGMETTI) HAS ASKED THAT THE NEXT PANEL MEETING BE SCHEDULED FOR MARCH 3 BY WHICH TIME HE HOPES THAT ALL THE NECESSARY DOCUMENTATION, I.E., EC WRITTEN SUBMISSIONS, WILL BE AVAILABLE. BEFORE THAT MEETING THE PANEL WILL RESERVE THE RIGHT TO SUBMIT WRITTEN QUESTIONS TO THE PARTIES. JAGMETTI INDICATED HIS PERSONAL VIEW THAT FOLLOWING MARCH 3 MEETING, PANEL SHOULD BE IN A POSITION TO MAKE A DETERMINATION.

7. RE FREEDOM OF INFORMATION ISSUE, THE CHAIRMAN OF THE PANEL STATED AT THE BEGINNING OF THE SESSION THAT THAT FOR THE DURATION OF PANEL DELIBERATIONS ALL COUNTRY SUBMISSIONS AND DOCUMENTS SHOULD BE CONSIDERED AS CONFIDENTIAL. HE ADDED THAT QUESTION OF WHAT SHOULD BE DONE WITH THIS MATERIAL AFTER PANEL HAD CONCLUDED ITS WORK NEED NOT BE ADDRESSED AT THIS TIME AND WOULD BE UP TO THE GATT COUNCIL. AS THIS WAS ACCEPTABLE TO LIMITED OFFICIAL USE

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U.S. ON BASIS OF INSTRUCTIONS (REF B) AND EC DID NOT OBJECT, THERE WAS NO FURTHER DISCUSSION OF THIS QUESTION. BRUNGART

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